

## **RDMD/Planning and Development Services**

MS Word Export To Multiple PDF Files Software - Please purchase license.

**DATE:** November 17, 20045

**TO:** Orange County Zoning Administrator

**FROM:** RDMD/PDS/Current and Advance Planning Services

**SUBJECT:** Public Hearing on Planning Application PA05-0036 for Variance

**PROPOSAL:** The applicant requests approval of a front yard setback Variance to permit the construction of a new entry portico at the front of the existing single-family dwelling. The front yard setback requirement for this property is 20 feet (the property is a shallow building site). The proposed addition has a front yard setback of five feet from the front property line, which requires approval of a Variance prior to construction.

**LOCATION:** The project is located in the community of Emerald Bay, inland of Pacific Coast Highway at 1413 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** Mr. & Mrs. Thomas, property owners  
Robert Patterson, Architect/Agent

**STAFF** Yosh Kawasaki, Staff Planner

**CONTACT:** Phone: (714) 834-4389 FAX: (714) 667-8344

**SYNOPSIS:** PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA05-0036 for Variance subject to the attached Findings and Conditions of Approval.

### **BACKGROUND:**

The subject property is located in the inland portion of Emerald Bay. The lot is 7,600 square feet in area, measuring approximately 80 feet across the street frontage and a depth of 95 feet. The site is developed with a single-family dwelling. The dwelling has two levels; a first floor (street level) and basement level that projects out from the slope. The property has a depth of less than 100 feet and is classified as a "shallow building site".

Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 "Coastal Development" District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing a dwelling or making a large addition to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction.

### **SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with single-family dwellings (see photo below).



### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to eight County Divisions, the Orange County Fire Authority and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Emerald Bay Community Association approved this proposal in April 5, 2005.

### **CEQA COMPLIANCE:**

The proposed project is Categorically Exempt Class 5 (minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

**DISCUSSION/ANALYSIS:**

As stated previously, in addition to the R1 zoning, Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in the Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development Permit prior to demolishing dwellings or making large additions to existing residences and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulations and are not subject to obtaining a Coastal Development Permit for new construction.

The subject site is 95 feet in depth. The R1 District has a normal front setback requirement of 20 feet. However, under Zoning Code Section 7-9-128 “Exception to Building Lines Chart”, the required front and rear setbacks on a lot with an average depth between 75 feet and 100 feet can be reduced to 20 percent of the average depth. For the subject site, the front setback requirement is 20 percent of 95 feet, which is 19 feet. The applicant proposes a new stand alone entry Portico in the front set back, five (5) feet from the front property line. The entry Portico is proposed with measurements of 8 feet x 8 feet. Because the proposed addition does not conform to the front yard setback standard, a variance is required.

Many front yard and rear yard variances have been approved in Emerald Bay. Within 300 feet of the subject site there are approximately 20 approved variances. Several lots have multiple approved variances. The reason for the many variances in Emerald Bay is the CCRs, which limit building height and allows setbacks of five (5) feet from all property lines. Because in many cases the property owner is unable to build to the R1 District height limit of 35 feet, structures are constructed with encroachments into the front and/or rear setback areas.

Even though many variances have been approved, before this or any other variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstance for approving the variance requested for this proposal is in Finding No. 8 and 9 of Appendix A. Because the requested variance is not unlike other previously approved setback variances, staff can support the proposed the front setback variance and makes recommendations as follows:

**RECOMMENDED ACTION:**

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA05-0036 for a Variances subject to the attached Findings and Conditions of Approval.

Respectfully submitted

*signature on file*

Yosh Kawasaki, Staff Planner

RDMD/Current and Advance Planning

**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. Site Photos
3. Site Plans
4. CEQA

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.